



UNDERSTANDING ACCESSIBLE MEETINGS AND LEGISLATIVE HEARINGS

A Guide for North Dakota Legislators and Public Agencies





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I. Who is Covered by Title II of the Americans with Disabilities Act, or ADA?

Title II of the ADA covers “public entities,” which include any state or local government and any of its departments, agencies, or other instrumentalities. All activities, services, and programs of public entities are covered, including activities of state legislatures and courts, town meetings, policy and fire departments, motor vehicle licensing, and employment.

Title II extends to all the activities of state and local governments whether or not they receive federal funds.

Private entities that operate public accommodations such as hotels, restaurants, theaters, retail stores, dry cleaners, doctors’ offices, amusement parks, and bowling alleys are not covered by Title II but are covered by Title III of the ADA and the Department’s regulation implementing Title III.

Public transportation services operated by state and local governments are covered by regulations of the Department of Transportation (DOT). DOT’s regulations establish specific requirements for transportation vehicles and facilities, including a requirement that all new busses must be equipped to provide services to people who use wheelchairs.

II. Overview of Requirements

State and local governments:

- May not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability.
- Must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.

- Must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless “necessary” for the provisions of the service, program or activity.
 1. Requirements that tend to screen out individuals with disabilities such as requiring a driver’s license as the only acceptable means of identification are also prohibited.
 2. Safety requirements that are necessary for the safe operation of the program in question, such as requirement for eligibility for drivers’ licenses may be imposed if they are based on actual risks and not on mere speculation, stereotypes or generalizations about individuals with disabilities.
- Are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.
- Must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- May provide special benefits beyond those required by the regulation to individuals with disabilities.
- May not place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.
- Shall operate their programs so that when viewed in their entirety they are readily accessible to and usable by individuals with disabilities.

III. Qualified Individuals with Disabilities

Title II of the ADA provides comprehensive civil rights protections for qualified individuals with disabilities. An individual with a disability is a person who:

- has a physical or mental impairment that substantially limits a major life activity; or
- has a record of such an impairment, or
- is regarded as having such an impairment.

Examples of physical or mental impairments include, but are not limited to, as is contagious and non-contagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Homosexuality and bisexuality are not physical or mental impairments under the ADA.



Major life activities include functions, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Individuals who currently engage in the illegal use of drugs are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs.

Qualified individuals:

- A qualified individual with a disability is one who meets the essential eligibility requirements for the program or activity offered by a public entity.
- The essential eligibility requirements will depend on the type of service or activity involved.
 1. For some activities such as state licensing programs, the ability to meet specific skill and performance requirements may be essential.
 2. For other activities such as where the public entity provides information to anyone who requests it, the essential eligibility requirements would be minimal.

IV. Program Access

State and local governments:

- Must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible.
- Need not remove physical barriers, such as stairs in all existing buildings as long as they make their programs accessible to individuals who are unable to use an inaccessible existing facility.
- Can provide the services, programs, and activities offered in the facility to individuals with disabilities through alternative methods if physical barriers are not removed, such as:
 1. Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.



2. Providing an aide or personal assistant to enable an individual with a disability to obtain the service.
 3. Providing benefits or services at an individual's home or at an alternative accessible site.
- May not carry an individual with a disability as a method of providing program access except in manifestly exceptional circumstances.
 - Are not required to take any action that would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administrative burdens. However, public entities must take any other action, if available, that would not result in a fundamental alteration or undue burdens but would ensure that individuals with disabilities receive the benefits or services.

V. Integrated Programs

- Integration of individuals with disabilities into the mainstream of society is fundamental to the purposes of the ADA.
- Public entities may not provide services or benefits to individuals with disabilities through programs that are separate or different unless the separate programs are necessary to ensure that the benefits and services are equally effective.
- Even when separate programs are permitted, an individual with a disability still has the right to choose to participate in the regular program *For example, it would not be a violation for a city to offer recreational programs specially designed for children with mobility impairments, but it would be a violation if the city refused to allow children with disabilities to participate in its other recreational programs.*
- State and local governments may not require an

individual with a disability to accept a special accommodation or benefit if the individual chooses not to accept it.

VI. Communications

State and local governments must ensure effective communication with individuals with disabilities. Where necessary to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others, the public entity must provide appropriate auxiliary aids.

- Auxiliary aids include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD's), videotext displays, readers, taped texts, Brailled materials, and large print materials.
- A public entity may not charge an individual with a disability for the use of an auxiliary aid.

Telephone emergency services, including 911 services, must provide direct access to individuals with speech or hearing impairments.

Public entities are not required to provide auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burdens.

VII. New Construction and Alterations

Public entities must ensure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities.

When a public entity undertakes alterations to an existing building, it must also ensure that the altered portions are accessible.

The ADA does not require retrofitting of existing buildings to eliminate barriers, but does establish a high standard of accessibility for new buildings.

- Public entities may choose between two technical standards for accessible design: The Uniform Federal Accessibility Standard (UFAS), established under the Architectural Barriers Act, or the Americans with Disability Act Accessibility Guidelines, adopted by the Department of Justice for places of public accommodation and commercial facilities covered by Title III of the ADA.
- The elevator exemption for small buildings under ADA Accessibility Guidelines would not apply to public entities covered by Title II.



VIII. Enforcement and Complaints

Private parties may bring lawsuits to enforce their rights under Title II of the ADA. The remedies available are the same as those provided under Section 504 of the Rehabilitation Act of 1973. A reasonable attorney's fee may be awarded to the prevailing party.

Individuals may also file complaints with appropriate administrative agencies.

- The regulation designates eight federal agencies to handle complaints filed under Title II.
- Complaints may also be filed with any federal agency that provides financial assistance to the program in question, or with the Department of Justice, which will refer the complaint to the appropriate agency.

Any individual who believes that he or she is a victim of discrimination prohibited by the regulation may file a complaint. Complaints on behalf of classes of individuals are also permitted.

Complaints should be in writing, signed by the complainant or an authorized representative, and should contain the complainant's name and address, and describe the public entity's alleged discriminatory action.

Complaints may be sent to:

Coordination and Review Section
Civil Rights Division
US Department of Justice
PO Box 66118
Washington DC 20035 6118

Complaints may also be sent to agencies designated to process complaints under the regulation, or to agencies that provide federal financial assistance to the program in question.

IX. Designated Agencies

The following agencies are designated for enforcement of Title II for components of state and local governments that exercise responsibilities, regulate or administer services, programs, or activities in the following functional areas:

1. **Department of Agriculture:** farming and the raising of livestock, including extension services.
2. **Department of Education:** education systems and institutions (other than health-related schools) and libraries.
3. **Department of Health and Human Services:** schools of medicine, dentistry, nursing and other health-related schools; health care and social service providers and institutions, including grass-roots and community services organizations and programs; and preschool and daycare programs.
4. **Department of Housing and Urban Development:** state and local public housing, and housing assistance and referral.
5. **Department of Interior:** lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation and museums.
6. **Department of Justice:** public safety, law enforcement, and the administration of justice, including courts and correctional institutions; commerce and industry, including banking and finance, consumer protection, and insurance; planning, development, and regulation (unless otherwise assigned); state and local government support services; and all other government functions not assigned to other designated agencies.



7. **Department of Labor:** labor and the workforce.

8. **Department of Transportation:** transportation, including highways, public transportation, traffic management (non law enforcement), automobile licensing and inspection, and driver licensing.

X. Technical Assistance

The ADA requires that the federal agencies responsible for issuing ADA regulations provide technical assistance.



Technical assistance is the dissemination of information (either directly by the Department or through grants and contracts) to assist the public, including individuals protected by the ADA and entities covered by the ADA, in understanding the law. To obtain assistance, contact either:

**The Rocky Mountain Disability and Business
Technical Assistance Center**

1-800-949-4232

www.adainformation.org

www.adaportal.org

or,

North Dakota Vocational Rehabilitation

1-800-755-2745

www.nd.gov/humanservices/business/rehabconsult

ADA Highlights

Title II

State and Local Government Services

A. Your Responsibility

Setting up barrier-free meetings or hearings isn't as difficult or time-consuming as many people think. After you've gone through the planning process once, subsequent efforts will be much easier.

Making public meetings accessible is required by law.

Many of the changes you made will benefit not only people with disabilities, but others as well. Ramps are often easier to climb than stairs, especially for someone who is carrying boxes of handouts or other materials. Clear visual aids benefit people who have hearing impairments, and they're also appreciated by those sitting in the back of large meeting rooms.

When most people think about accessible meetings, the first thing that comes to mind is making sure a room is accessible for someone who uses a wheelchair. While this is certainly an essential consideration, one of your first tasks should be to determine whether interpreters will be needed for people who are deaf or hard of hearing. There are only a limited number of interpreters in North Dakota, and most have other full-time jobs.

When you send out hearing schedules or meeting notices, you should request that anyone who will need

accommodations to attend the meeting or hearing contact a designated coordinator at least 48 hours in advance of the meeting's starting time.

Another thing to consider is that you may need to make printed materials available in an alternate format, such as large-print, Braille, computer disc or audio cassette. Since this requires advance notice as well, you should plan for this contingency and be prepared to meet these requests.

B. Adaptability

Making facilities accessible doesn't have to cost a lot of money. The best advice is to consult with a team of people who have various disabilities. Ask them to check what changes can be made. A list of low-cost ideas begins on the next page.

Easy Adaptations

- Inaccessible water fountains can be made accessible to wheelchair users by adding a wall-mounted paper cup dispenser or placing paper cups on a small table.
- Doorknob and faucet handles can be replaced with lever hardware or add-on lever hardware to make them usable by people with limited manual dexterity.
- Removal or rearrangement of furniture can sometimes do wonders for accessibility and the safety of people who use wheelchairs or have visual impairments.

C. Meeting Announcements

All materials which are sent to promote meetings and hearings should advertise their accessibility. You may wish to include a statement such as,

“The state of North Dakota makes every effort to hold fully accessible meetings and legislative hearings. If you need assistance to participate in a scheduled meeting or hearing, please contact _____ to make your request at least 48 hours in advance of the meeting.”

You could also include the accessibility symbol on printed meeting notices or hearing schedules. This lets people with disabilities know they're welcome, and that they can attend without difficulty.

D. Small Meetings

If you are holding a smaller meeting, it's usually easier to select an accessible facility than to adapt a less accessible facility. The meeting place should be examined before a selection is made. Don't just rely on the hotel or building staff. Here are some important things to consider:

- Is the entrance level or ramped?
- Is there an accessible pathway to the meeting room?
- Are there wheelchair accessible restrooms?
- If the meeting will last through mealtime, is the dining area or restaurant you plan to use fully accessible?
- If you plan field trips or evening activities, can you



accommodate all in your group, including those with disabilities?

- If overnight accommodations are needed, are wheelchair accessible rooms available?
- Are microphones accessible and adjustable?

E. Tips for Committee Chairs and Presenters

If a meeting is to be truly accessible, committee chairs and presenters should know of any people with disabilities in the audience, and be aware of their needs. Here are some ideas that may help you anticipate these needs:



Lighting – If your session includes participants who use interpreters, make sure the lights are not completely turned off.

Seating – Be sure participants who use interpreters can sit facing the interpreter. Participants who use tape recorders may need to sit near electrical outlets. Be sure there is adequate space for four people with wheelchairs.

Programs – If there are last-minute changes in scheduling, try to notify people with visual impairments of these changes.

Presentation Skills – Be sure all speakers know these guidelines: Speak clearly, and face the audience as often as possible. Describe visual aids, such as writing on boards and flip charts clearly.

F. Key Questions for Committee Chairs

1. Is there a person responsible for making the meeting accessible?
2. Are services available to people who request them?
 - People who are deaf or hard of hearing?
 - People who are blind or visually impaired?
 - People who are mobility impaired?
 - People with other disabilities?
3. Can people with disabilities fully participate in each of the following meeting events?
 - Hearings or meetings
 - Tours
 - Exhibits
 - Social events



North Dakota

STATE REHABILITATION COUNCIL

A NEW HORIZON FOR INDIVIDUALS WITH DISABILITIES

Prairie Hills Plaza 1237 West Divide Avenue
Suite 1B Bismarck, North Dakota 58501-1208

*To request copies of this manual in an alternate format, please contact North Dakota
Department of Human Services Vocational Rehabilitation at 1-800-755-2745.*